

## POSSESSION OF 'CLASS A' DRUGS

### Misuse of Drugs Act 1971

- 5.- (1) Subject to any regulations under section 7 of this Act for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.  
 (2) Subject to section 28 of this Act and to subsection (4) below, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1).

### Maximum Sentence:

*Misuse of Drugs Act 1971*

*Summarily: 6 months imprisonment or £5,000 fine or both*

*Indictment:: 7 years imprisonment or a fine or both*

### Assessment of Offence

*(starting points and ranges based on 1<sup>st</sup> time offender convicted following contest)*

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Possession of a small quantity of the drug for personal use	Fine	Fine to Community Order
Possession of larger amount of the drug for personal use	Community Order	Fine to 3 months Custody

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
1. Offender exercising or acting in position of special responsibility. 2. Possession of drugs in a public place or school.	1. Evidence that use was to help cope with a medical condition.

### Relevant Cases:

*NI Cases*

R v Hogg [1994] NI 258

R v Haveron and Others (7 July 1995)(Unreported)

R. v. McIlwaine [1998] NI 136

R. v. Murdock [2003] NICA 21

DPP's Ref (No.2 of 2013)(McKeown); R v Han Lin [2013] NICA 28

DPP's Ref (Nos.1, 2, 3 & 4 of 2015)(Hughes and others) [2015] NICA 53

*English Cases*

R v Aramah (1982) 4 Cr App R (S) 407.

R v Morris [2001] 1 Cr App R 25

### Notes:

1. For exemptions and exceptions to Section 5 see Misuse of Drugs Regulations 2001 (SI 2001 No. 3998), Regulation 10.
2. For defences see Misuse of Drugs Act 1971, section 5(4)